

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division

In re:

CARLA YVONNE SETTLE,

Debtor.

Chapter 13

Case No. 11-60463

**OBJECTION TO CONFIRMATION
OF CHAPTER 13 PLAN**

Gary Deal (“Deal”), a secured creditor, by his attorneys, submits this Objection to Confirmation of the debtor’s Chapter 13 Plan dated March 8, 2011, for the following reasons:

1. On July 31, 2008, the debtor made a promissory note (“Note”) in favor of StellarOne Bank (the “Bank”) in the amount of \$64,659.00. The Note was secured by a deed of trust (“Deed of Trust”) on the debtor’s property at 348 Red Gate Road, Syria, Virginia 22743.

2. On July 30, 2010, Deal acquired the Note from the Bank by way of assignment. At that time, the principal balance on the Note was \$62,098.60. In addition, the debtor owed \$2,710.85 in past due interest on the Note, \$278.82 in late charges, \$2,200 in attorney’s fees for a foreclosure sale that had been initiated under the Deed of Trust but cancelled when Deal bought the Note, and \$531.40 in costs from the sale.

3. After Deal acquired the Note, the debtor made two payments but again fell behind. In January of 2011, Deal requested that foreclosure proceedings be initiated

under the Deed of Trust. The substitute trustee noticed and advertised the sale for February 24, 2011, and Deal incurred additional costs and attorney's fees.

4. On February 23, 2011, one day before the second foreclosure sale was scheduled, the debtor filed her Chapter 13 petition with this Court. At that time, she owed Deal the following sums under the Note: \$62,098.60 in principal, \$5,664.21 in interest, \$402.74 in late charges, \$3,312.22 in attorney's fees, and \$717.60 in costs.

5. On March 22, 2011, Deal filed a proof of claim ("Proof of Claim") evidencing a secured claim under the Note and Deed of Trust in the total amount of \$72,196.37, of which \$10,097.77 were pre-petition arrearages.

6. On March 8, 2011, the debtor filed her proposed Chapter 13 plan, which plan does not provide for payment of the full amount of the pre-petition arrearage owed to Deal as set forth in the Proof of Claim.

7. The hearing on confirmation of the debtor's proposed Chapter 13 plan is scheduled for May 23, 2011, at 9:30 a.m. in Charlottesville.

WHEREFORE, Deal requests that the Court deny confirmation of the debtor's pending Chapter 13 plan, require that any amended plan offered by the debtor address the matters raised in this Objection, and provide such other and further relief as the Court may deem just and proper.

Respectfully submitted,

GARY DEAL,

by counsel.

/s/ Neal L. Walters

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CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: the Trustee, the United States Trustee and Debtor's counsel, and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: N/A.

/s/ Neal L. Walters

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